**THE HON'BLE SRI JUSTICE C.V.RAMULU**

W.P.No.27611 of 1997

Dated:07.3.2007

Between
Vega Venkata Narayana Chowdhary
.....Petitioner

and

1. The Hanuman Cooperative Sugar Ltd
Rep., by its Managing Director, Hanuman
Junction and another.
...Respondents

**THE HON'BLE SRI JUSTICE C.V.RAMULU**

W.P.No.27611 of 1997

ORDER:

This writ petition is filed seeking a Mandamus to declare the action of the 1st respondent in not regularizing the service of the petitioner as Lab Chemist (seasonal) in the existing vacancy and not paying the regular time-scale from the date of his appointment as arbitrary and illegal and violative of Article 14 of the Constitution of India.

It appears that the petitioner has been working as Lab Chemist (seasonal) since 3.1.1986 as NMR in the 1st respondent-company. The petitioner passed Intermediate with MPC and also passed Licenciate in Sugar Technology in First Class and completed his first spell of practical training from 11.3.1983 to

10.9.1983 in the same organization as Apprenticeship and working as NMR Lab Chemist for the last 11 years. The 1st respondent issued a notification on 23.8.1988 in the local newspaper calling applications from the eligible candidates for the posts of Lab Chemists. There were two vacancies of Lab Chemists, one post reserved for OC and another reserved for SC candidate. Pursuant to the said notification, the petitioner applied for the said post. But unfortunately no selection process had taken place for the reasons best known to the respondents and the posts are kept vacant since 1992. The petitioner completed his apprenticeship from 1983 to 1985 with the 1st respondent prior to his appointment as NMR. The petitioner is fully qualified to hold the post of Lab Chemist (seasonal) and there are vacancies in the said post. In spite of several representations, the case of the petitioner was not considered for absorption on permanent basis. Further the

Government issued G.O.Ms.No.212 dated 22.4.1994 for regularization and absorption of daily wage NMR employees. As per the said G.O., the persons who are in service and who have worked continuously for a minimum period of 5 years and are continuing as on 25.11.1993 are entitled for regularization by appointing authorities subject to other eligibility criteria. Since the services of the petitioner are not regularized in spite of several representations being made, the present writ petition has been filed.

A detailed counter-affidavit has been filed by the 1st respondent wherein it is asserted that the procedure for recruitment in Cooperative Sugar factories was laid down by the 2nd respondent in Circular Rc.No.22985/83/B, dated 9.8.1983. Before filling up any vacancy, prior permission of the 2nd respondent has to be obtained. All the selection posts, as per wage board scales, are

to be filled up by direct recruitment sponsored through Employment Exchange etc and selection to those posts are to be made by the Selection Committee constituted by the 2nd respondent for this purpose. Accordingly recruitment was done for all categories of posts for the first time in the year 1982 as specified in the staffing pattern. The candidates should be sponsored through Local Employment Exchange and Rule of Reservation in respect of SC/ST and BCs should be followed. As per staffing pattern, there are 4 posts of Lab-Chemists (seasonal) and 4 posts of Lab Assistants (seasonal) in Manufacturing Section. The educational qualifications are Degree with MPC group and Apprenticeship in Sugar Technology. In the year 1982, two persons were appointed as Lab-Chemists (seasonal) and one person as Lab Assistant by direct recruitment. Due to exigencies of work, the petitioner was being engaged during the year 1985-86 crushing

season to assist the Chief Chemist to work in the Laboratory. It is admitted that during the year 1988, the respondent Cooperative Sugar Factory proposed to take up recruitment to the vacant posts and notified the same in daily newspaper dated 21.8.1988 and also informed the District Employment Exchange Officer, Vijayawada to sponsor the eligible candidates. As per the above notification 2 posts of Assistant Engineers were to be filled up and more than 6 candidates appeared for those two posts. But unfortunately the recruitment deferred due to arson that took place in the factory on 26.12.1988 in connection with the murder of Vangaveeti Mohan Ranga Rao, Ex MLA of Vijayawada. Further, it is asserted that G.O.Ms.No.212, dated 22.4.1994 is not applicable to seasonal employees. In fact, this is clear from the instructions of Government issued through its Memo No.2283/Sug/A3/93.22 Industrial and Commerce

(Sugar) dated 14.2.1997 that seasonal employees are not covered by G.O.Ms.No.212 dated 22.4.1994.

2nd respondent also filed a separate counter-affidavit stating that G.O.Ms.No.212 has no application to the case of the petitioner. The society is an Agro Based Industry and also seasonal in its nature and the factory will not require all the manpower throughout the year. Generally the period of crushing season is 4 to 5 months only that too depending upon the availability of sugar cane to the factory. Due to exigencies of work in manufacturing section, the application of the petitioner is considered and engaged to work in Laboratory of the factory on daily wage basis but not as Lab Chemist.

Heard the learned counsel on either side.

Learned counsel for the petitioner asserted that the petitioner is working as Lab Chemist (seasonal) since 1986 and he is

entitled for being appointed to the post of Lab Chemist (seasonal) on regular basis.

From a perusal of the record, it is clear that although the recruitment was sought to be made in the year 1988, but it could not completed in view of some untoward incidents that happened in Vijayawada. The petitioner has been working as Lab Chemist (seasonal) since 1986 onwards. As of now, he is working as daily wage Lab Chemist. What the petitioner seeks is to regularization of his services as Lab Chemist (seasonal) on permanent basis and he should be put on regular time scale. The fact that some vacancies are available is not disputed by the respondents.

In view of the above, without expressing any opinion on merits, the respondents are directed to consider the case of the petitioner for being absorbed on regular basis as lab Chemist (Seasonal) or in any suitable post and pass appropriate orders as per law, within a

period of eight weeks from the date of receipt of a copy of this order and communicate the same to the petitioner.

With the above direction, the writ petition is disposed of. But no costs.

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07-03-2007

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